

Appl. No. 10/695,283
Docket No. 9086M
Amdt. dated 9/25/07
Reply to Office Action mailed on 7/30/07
Customer No. 27752

REMARKS/ARGUMENTS

Claims 1 and 6-9 are now under consideration. The claims have been amended to recite that the composition is an aqueous dispersion and contains a colloidal stabilizer. Basis is at page 6, line 6-7 (aqueous dispersion) and page 12, beginning at line 14 (colloidal stabilizer). It is submitted that all amendments are supported and entry is requested.

Rejections Over US2002/0058015A1

Claims 1, 6-9, 12, 13 and 16 stand rejected under §102(e) over '015, for reasons of record at page 3 of the Office Action.

Applicants respectfully traverse the rejections on this basis, to the extent they may apply to the claims as now amended.

Before turning to the specific grounds of rejection under §102, attention is directed to the controlling law in this matter.

As stressed in MPEP §2131, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. (Citations omitted.) Moreover, "The identical invention must be shown in as complete detail as contained in the . . . claim." (*Ibid*; emphasis supplied)

Furthermore, not only must all the individual elements be found in a single document, but also they all must be arranged as in the claim under review. *In re Raymond G. Bond*, 910 F. 2d 831; 1990 US App. LEXIS 13087; 15 USPQ 2D (BNA) 1566 [cases cited at LEXIS document, page 2, II.]

Succinctly stated, '015 does not meet the foregoing tests to support any rejection under §102, with regard to the claims as now amended. Specifically, the '015 composition comprise insoluble particle dispersed in a liquid polymer, with no indication of a colloidal stabilizer in the disclosed aqueous two-phase composition. (Abstract and [0019]) Since all elements of the present claims are not disclosed and/or arranged in the same manner as '015, it is submitted that the rejection on this basis should be withdrawn.

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Rejections Over US 3,681,248

Claims 1, 609, 12-13 and 16 stand rejected under §102 (b), or, in the alternative, under §103(a) over US 3,681, 248, for reasons of record at pages 4-5 of the Office Action.

Applicants respectfully traverse all rejections over the '248 patent.

In making the rejection, the Examiner states, "Gould [i.e., '248] teaches a non-encapsulated benefit agent delivery system comprising a water-insoluble polymer particle" See Office Action page 4; emphasis supplied.

It is respectfully submitted that the Examiner has misapprehended the clear teachings of '248. At column 1, lines 48-49, the polymers of '248 are taught to be water soluble. Again, at column 2, lines 12-14, the patentees in '248 state unequivocally, "The polymers employed in the present invention are not only soluble in water but are also soluble in many polar solvents." [emphasis supplied] And, yet again at column 3, lines 21-21, '248 clearly states, "The water soluble polymers of the present invention are infinitely soluble in water, although at concentration above 30% solution viscosity rises sharply." [emphasis supplied]

Contrary to the Examiner's position, it is submitted that '248, in fact, teaches the exact opposite (water solubility vs. polymer water insolubility) of the present invention. Said another way, whatever the polymers at the passage cited in the Office Action at page 4 as "(paragraph bridging column 1 and 2)" may be, they certainly must be water soluble. Accordingly, '248 cannot properly support a rejection under §102 or §103. Reconsideration and withdrawal of the rejections based on '248 are therefore requested.

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In light of the foregoing, early and favorable action in the case is requested.

Respectfully submitted,

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Page 6 of 6